

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CAROLINA TELEPHONE AND TELEGRAPH COMPANY

Employer

and

Case No. 11-RC-6468

COMMUNICATIONS WORKERS OF AMERICA

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.1/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute an appropriate voting group: 2/

All collection analyst Is, collection analyst IIs, and accounts receivable resolution specialists employed by the Employer at its facility located in Tarboro, North Carolina, but excluding all supervisors, projects administrators, administrative assistant, accounts receivable manager, and guards and professional employees as defined in the Act.

If a majority of the employees in the above voting group cast their votes for Petitioner as part of the existing multi-location unit, they will be considered to have indicated their desire to constitute a part of the existing multi-location unit currently represented by Petitioner, and the Petitioner may bargain for them on that basis.

If a majority of the employees in the above voting group do not cast their votes for Petitioner, they will be considered to have indicated their desire to be unrepresented.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the appropriate voting group at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the voting group who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees

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engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

Communications Workers of America

LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 11 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office of the National Labor Relations Board, Region 11, 4035 University Parkway, Suite 200, P. O. Box 11467, Winston-Salem, North Carolina 27116-1467, on or before March 11, 2002. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.).

If you have any questions, please contact the Regional Office.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by March 18, 2002.

Dated March 4, 2002

at Winston-Salem, North Carolina

/s/ Willie L. Clark, Jr.
Regional Director, Region 11

- 1/ Carolina Telephone and Telegraph Company (referred to herein as the Employer), a wholly owned subsidiary of Sprint Corporation, is a North Carolina corporation engaged in providing local telephone service throughout the United States, including eastern North Carolina. During the preceding twelve-month period, the Employer had gross revenues in excess of \$100,000. During the same period, the Employer provided goods, materials, and services valued in excess of \$50,000 directly to points outside the State of North Carolina.
- 2/ Both the Employer and Communications Workers of America (referred to herein as the Petitioner) filed briefs which have been carefully considered.

The Petitioner presently represents a unit of various employees of the Employer in eastern North Carolina in its Business Marketing Organization, Network Engineering, Customer Service Organization, Network Planning, NOCUTS, Inc., Network Support, Network Operations, and, in the former NCTC area, Consumer Market Organization at the Employer's offices and installations but excluding all professional employees, confidential secretaries, Director's secretaries, General Manager's secretaries, Branch Manager's secretaries (for Marketing and Business Development), supervising clerks, guards and supervisors as defined in the National Labor Relations Act, as amended (referred to herein as the existing multi-location unit). The Employer's employees at the following locations are not included: Southern Pines, Pinehurst, Vass, Carthage, Whispering Pines, Robbins, Fuquay-Varina, Angier, Siler City, Pittsboro, Bonlee, Goldston, Gibsonville, and Kernersville. The unit was first certified in 1968. The parties presently have a collective bargaining agreement effective November 30, 1999, through November 29, 2002. There are approximately 1800 employees covered by such collective bargaining agreement. Classifications contained within this unit include: house service worker, mail room helper, storeroom worker, mail truck driver, equipment maintainer station, operator, operations clerk, teller, collection representative, secretarial stenographer, traffic results clerk, service assistant, repair service assistant, utility locator, service representative, repair service evaluator, coin telephone collector, marketing repair service evaluator, storeroom repairer, auto mechanic, cable splicer, construction worker, equipment repairer, line worker, line worker records, cable maintenance technician, key equipment installer-repairer, customer service technician, facilities assigner, business services technician, building maintenance technician, network switching technician, and equipment repair technician.

In addition to the aforementioned unit, in 1997, the Petitioner was certified to represent the Employer's business office employees in three separate units as follows: 1) a 132-person unit comprised of service representatives, tellers, and clerical employees located in Fayetteville, North Carolina; 2) a 37-person unit comprised of service representatives, tellers, and clerical employees located in Clinton, North Carolina; and 3) an 88-person unit comprised of service representatives, tellers and clerical employees in New Bern, North Carolina, as well as tellers in Jacksonville, NC, Morehead City, NC, and Greenville, NC. The unit located in Clinton, North Carolina has been decertified. Presently, there is a decertification petition pending at the Fayetteville location. Since their certification, the Fayetteville and New Bern-Jacksonville-Morehead City-Greenville units have expanded to include about 230 and 205 employees, respectively. Thus, currently, the Petitioner represents approximately 2200

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employees including those covered by the collective-bargaining agreement referred to above, and the Fayetteville and New Bern bargaining units. In addition to the 2200 represented employees, there are approximately 2500 unrepresented employees in eastern North Carolina.

The Petitioner seeks to represent approximately 46 employees (referred to herein as collection employees), employed by the Employer at its Tarboro, North Carolina facility. The Petitioner seeks an election pursuant to the self-determination election procedures established under The Globe Machine & Stamping Co., 3 NLRB 294 (1937) and its progeny. The Petitioner contends that the collection employees should be permitted to determine whether they wish to be included in the Petitioner's existing multi-location unit described above, or remain unrepresented. The Petitioner further states that, in any event, it will proceed to an election in any unit found appropriate by the Board. The Employer contends that because the petitioned-for unit is itself an appropriate unit, those employees are ineligible for a self-determination election, and further asserts that collection employees do not share a community of interest with the employees who are currently in the existing multi-location unit.

As shown above, the Employer is a wholly owned-subsidiary of Sprint. Sprint has three primary divisions: 1) a local telephone division, which provides products and services; 2) a long distance division, which provides long distance services; and 3) a wireless division known as Sprint PCS. The Employer's operations herein are part of the local telephone division which is divided into organizations relating to business customers and consumer or residential customers.

The record shows that the collection employees work in three classifications: collection analyst I, collection analyst II, and accounts receivable resolution specialist. There are presently 18 collection analyst Is, 19 collection analyst IIs, and 9 accounts receivable resolution specialists. Collection employees handle collections for business customers, including those such as state governments, or large financial institutions or other commercial entities, on a nationwide basis—essentially consisting of an 18-state area. The accounts involve invoices as small as \$5,000 including the cost of equipment and installment, and as large as \$1,000,000. Each employee collects an average of \$5 million per month.

The record discloses that the collection function has existed at its present location and in its present scope since at least 1996. Also, the parties stipulated that the group of petitioned-for employees was in existence and engaged in the same job function that they are presently performing, when the current collective bargaining agreement became effective on November 30, 1999. However, since 1996, collection employees' job titles have changed and their duties have become more specialized. For example, prior to the creation of the accounts receivable resolution specialist position in the fall of 2001, collection employees handled each of their accounts in its entirety. However, under the system's present structure, if a customer disputes a bill because the equipment is not working properly, or for some other reason, an Analyst I or II refers that matter to his or her resolution person. That person, in turn contacts others to try to resolve the problem, and then returns the account back to the original agent, who again contacts the customer for payment.

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Collection employees work in cubicles and utilize computers, telephones, and calculators in the performance of their jobs. Collection employees must be familiar with regulated and non-regulated services. Regulated services relate to the tariffed elements that have standard rates that have to be provided and are primarily network services as opposed to non-regulated services such as a large PBX system, or a key system. Collection analyst Is and IIs are responsible for collecting outstanding invoices for products or services. Collection analyst Is handle less complex accounts that are semi-routine in nature with a smaller monetary value as compared to collection analyst IIs. Accounts receivable resolution specialists are responsible for managing an \$80-90 million accounts receivable portfolio for Sprint's business customers which includes regulated and non regulated charges. Those employees provide guidance to Is and IIs in problem resolution when there is a dispute regarding a bill such as the service has not been completed, or the equipment is not functioning properly, or some type of contractual issue. In addition, resolution specialists develop and maintain reports on disputed items and assist with data gathering. Collection employees' positions, among other things, require good problem solving and analytical skills, ability to use software applications, and an understanding of products and services, billing systems, and customer contracts.

Collection analyst Is are a grade 39 with a maximum salary of \$47,190; presently their average salary excluding incentives, bonuses, and overtime is \$31,700. Collection analyst IIs are a grade 40 with a maximum salary of \$52,650; their average salary excluding incentives, bonuses, and overtime is \$34,400. Accounts receivable resolution specialists are a grade 41 with a maximum salary of \$60,320; their average salary is \$32,800. Collection employees are eligible for overtime.

The collection employees work in a stand-alone facility in Tarboro and are the only work group in that building. There are four first line supervisors over the collection employees. Those supervisors in turn report to an on-site general manager who in turn reports to Maxine Austen, Director of Accounts Receivables. Austen in turn reports to the Vice President in Business Markets. That individual does not have responsibility over the residential collections; rather that is a completely separate reporting line.

In addition to the collection employees, there are two other Sprint facilities in Tarboro. One is located a block away from the facility which houses the collection employees, and has approximately 300 employees. There is also another Sprint facility about one and one-half miles from the collection facility, which also has approximately 300 employees. Most of the employees in those two facilities are administrative, managerial, or engineering employees. The Petitioner represents approximately 30-35 bargaining unit employees at those two facilities.

Representation elections are held only in bargaining units determined to be appropriate for collective bargaining. Regarding unit determinations, Section 9(b) of the Act provides that the Board "shall decide in each case whether . . . the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof" In making unit determinations, the Board's task is merely "to determine whether the petitioned-for unit is an appropriate unit, even though it may not be the only appropriate

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unit, or most appropriate unit” Harron Communications, 308 NLRB 62, 63 (1992). Once the Board has determined the appropriate unit, the standard election run by the Board is a single vote of the entire appropriate unit.

In certain limited circumstances, however, a separate self-determination election on whether to be included in the unit is permitted particular subgroups of employees. In Globe Machine and Stamping Co., 3 NLRB 294 (1937), the petitioning unions sought to represent three separate units of the employer’s production workers, whereas the intervening union contended that the three groups should be treated as one unit. Id. at 298. In that case, the Board determined that either unit arrangement would be appropriate, and concluded that in situations where the issue was so evenly balanced, “the determining factor [would be] the desire of the [employees] themselves.” Id. at 300. Thus, there the Board permitted the employees the choice of being represented in a separate unit, an overall unit, or to remain unrepresented. Id. The Globe doctrine as expanded in Armour & Company, 40 NLRB 1333 (1942), is applicable here. In that case, the petitioning union already represented the employer’s production and maintenance employees and sought the inclusion of the employer’s cooper department employees, electrical department employees, and the motive power department employees. Id. at 1334. The Board allowed the employees in those three groups to decide whether to join the existing unit, or remain unrepresented. Id. at 1336.

In order to determine whether a self-determination election is permitted, the Board considers two factors: 1) whether the employees sought to be included “constitute an identifiable, distinct segment so as to constitute an appropriate voting group” and 2) whether the employees sought to be included “share a community of interest with unit employees.” Warner-Lambert Co., 298 NLRB 993, 995 (1990). In determining whether the existing multi-location unit and collection employees comprise an appropriate unit, it is necessary to examine the following indicia: “employees’ skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history.” Alamo Rent-a-Car, 330 NLRB No. 147, slip op. at 1 (2000).

Here, it is clear that the collection employees are a homogeneous identifiable group so as to constitute an appropriate voting group. Accordingly, the first prong of the test set forth in Warner-Lambert is satisfied. The collection employees perform a discrete function—handling collections for complex business customers—over an 18-state radius. They also share common skills and tasks in the performance of their duties, enjoy similar wages and benefits, are separately supervised, and are the only work group housed at their facility in Tarboro. Thus, the record amply demonstrates, and, indeed, the parties stipulated that the collection employees would constitute a separate appropriate unit. See, for example, Rinker Materials Corporation, 294 NLRB 738, 739 (1989) (in self-determination context, separate units of truck drivers and production and maintenance employees also appropriate; Board found, among other things, that the two groups performed significantly different functions, possessed different skills, and had insubstantial interchange).

There is no merit to the Employer's contention that, because the collection employees themselves constitute an appropriate unit, the employees are thereby precluded from participating in a self-determination election. See for example Community Publications, Inc., 162 NLRB 855, 856-857 (1967)(Board concluded that employees could constitute, by themselves, a separate unit, or that they could appropriately be included as part of existing unit). Accord Southwestern Greyhound Lines, Inc., 112 NLRB 1014, 1017 (1955). NLRB v. Raytheon Company, 918 F.2d 249 (1st Cir. 1990), cited by the Employer, is not to the contrary. There, the Court simply explained that application of the Armour doctrine discussed above, did not require that "the group of employees who were voting to join an existing unit [must be], by itself, an appropriate unit." Id. at 252-253. The Court did not hold that a self-determination election was improper unless the petitioned-for group constituted an appropriate unit.

Notwithstanding the separate identity of the collection employees, the record demonstrates that they share a community of interest with the existing multi-location unit. Accordingly, the second prong of the Warner-Lambert test is satisfied. Thus, the record demonstrates that the collection employees and employees in the existing unit share some common skills and working conditions. Although the collection employees work with additional computer programs, software application such as SOE, CRB, NIBS, SPICE, and SPARK are utilized by collection employees as well as bargaining unit employees. Both groups of employees also use similar equipment in their work: computers, telephones, and calculators. The record also reflects that, like collection employees, some bargaining unit employees also perform work on a national scope. The record also shows that several bargaining unit positions earn wages that are comparable to some of the collection employees. In addition, bargaining unit employees are eligible to participate in a pay-for-performance plan that has the potential to general additional income for employees. I observe, however, that the levels of benefits and coverage are different between represented employees and collection employees in such areas as pension, severance pay, 401(K), dental and medical benefits, among others. I also note that raises for bargaining unit employees are principally seniority-based, whereas raises for collection employees are performance-based.

In considering the appropriateness of including collection employees in the existing multi-location unit, I note that collection work for business accounts has not historically been confined solely to unrepresented employees. In addition, work performed by the collection employees has some similarities to residential collecting, which at least, in part, remains in the bargaining unit.¹ In that regard, the record shows that in the late 1970's, the Employer had a customer contact department which included service representatives, a classification which was added to the existing unit in 1979. Among other things, service representatives had some responsibility for trying to collect unpaid bills from business and residential customers. Later, the parties' collective bargaining agreement, effective from 1993 to 1996, included the newly created position of collection representative. That function appears to have been utilized in

¹ As shown, the collection employees referred to herein do not handle residential collections. Residential collections are much less complex as those customers ordinarily have only one or two lines in their homes with much simpler equipment, and the dollar value of their accounts is significantly smaller than business accounts.

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only one office—Elizabeth City, North Carolina—around 1994, and handled delinquent accounts for residential and small business customers in Elizabeth City and a surrounding 10-12 county area. That collection function was subsequently removed to Greenville, North Carolina, and expanded to a multi-state collection center where unrepresented service representatives performed the collections work. As shown, in approximately 1996, collection work for business customers on a national scope was moved to the present Tarboro, North Carolina location. The record further shows that today some of the service representatives presently handling residential collections are in bargaining positions. Cf. Southwestern Bell Telephone Co., 222 NLRB 407, 410-411 (1976). There, the Board clarified the unit to include two new positions: account executive and senior account executive. In concluding that those positions were properly included in the bargaining unit, the Board observed that employees in unit positions had historically performed selling functions and that the new classifications which performed specialized selling were a “natural outgrowth” of bargaining unit work.

In regard to centralized control of labor relations, the record does reflect that collection employees have separate immediate supervision. Thus, as shown, they are supervised by four first line supervisors who report to an on-site general manager. That person reports to Director of Accounts Receivable Maxine Austen who frequently visits the collection facility, but is based in another state. However, at the higher levels of management there is some overlapping authority in overseeing bargaining unit employees and unrepresented employees. Thus, Alvin Quarrels is the employee relations manager for eastern North Carolina. His duties are to negotiate and administer labor contracts for that area and to administer Human Resources’ policies and practices for non-represented employees in that same geographic area. The record further shows that ultimately the Vice President responsible for employment, Human Resources, recruiting and policies for business markets including collection employees is Thornton Mason. Among other things, Mason also has responsibility over consumer markets which includes some bargaining unit service representatives. Although Mason does not have any responsibility for negotiation or administration of collective bargaining agreements, he does have some management responsibilities over some bargaining unit employees. Senior Director David Saffinoff has authority for all collective bargaining agreements across the country. Mason and Saffinoff do not have a reporting relationship. Quarrels reports to Saffinoff, but not Mason.

The record further shows that the existing multi-location unit is concentrated in various facilities within eastern North Carolina. The collection employees are housed in Tarboro, which is also located in eastern North Carolina. The employer has not established that the inclusion of the collection employees into the existing multi-location unit would be inappropriate because of their Tarboro location. Indeed, I note that while the majority of the employees located in Tarboro are unrepresented, between 30-35 employees in that location are included in the existing multi-location unit. Indeed, facilities at some distance from each other have often been found to be an appropriate multi-location unit. See, for example, Dayton Transport Corp., 270 NLRB 1114, 1114-1115 (1984) (system-wide unit found appropriate although three facilities separated by 110 miles and 65 miles, respectively);

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Electric Machinery, Inc., 269 NLRB 499, 499-501 (1984) (smallest appropriate unit was regionwide, covering 51 jobsites in 11 cities and 8 counties).

The record demonstrates limited functional integration, as the collection employees in many respects operate independently in performing their duties. However, in the course of trying to resolve problems which are preventing a customer from paying its bill, collection employees may have work-related contact with the following persons within the Employer's organization: branch managers, service managers, sales people, sales assistants, and bargaining unit technicians who perform maintenance work at the customer site. Normally, the usual process is that the collection employees work with a management team which may, for example, identify and supervise technicians regarding installation or other network issues to correct a problem. Thus, as shown above, most work-related contact occurs between collection employees and nonbargaining unit employees in resolving problems that may occur. However, the record indicates that occasionally collection employees may contact technicians directly, although the record does not disclose the extent to how often this occurs.

Regarding interchange, there is no temporary substitution between collection employees and other employees, including bargaining unit employees. However, with respect to transfers, jobs are posted company wide. The record shows that non-bargaining unit employees, including collection employees, can freely transfer to bargaining unit jobs and vice versa. In fact, 31 of the 46 current collection employees transferred from other unspecified positions—including bargaining unit positions—and locations of the Employer. The record does not disclose the number of bargaining unit employees who transferred to collection employee positions. Fifteen of the present group of collection employees were hired from outside the company and received on the job training. The record does not disclose when the transfers from within the company or hires from outside the company took place, except that one employee was hired during 2001 from outside the company.

With respect to bargaining history, it is the Petitioner who seeks to expand its existing multi-location unit if the collection employees so desire. The collection employees have not previously been represented as a group, and no other union presently seeks to represent them on any basis. Moreover, it is settled that the optimal unit for a public utility is system-wide. See, for example, Peco Energy Co., 322 NLRB 1074, 1079 (1997). Although inclusion of the collection employees into the existing multi-location unit will not establish a system-wide unit here, that result is less fragmented than requiring organization by separate units.

The Employer's reliance on Manor Healthcare Corp., 285 NLRB 224 (1987); Duke University, 306 NLRB 555 (1992), enforced mem. 43 F.3d 712 (D.C. Cir. 1994), and RB Associates, 324 NLRB 874 (1997), to support its assertion that the collection employees and existing multi-location unit lack a sufficient community of interest, is misplaced. In all three of those cases, the petitioning union petitioned for a single-location unit and the Board rejected the employers' arguments that a multi-facility unit was the only appropriate unit. Here our inquiry is merely whether a multi-facility unit is appropriate, not whether it is the only appropriate unit. The Employer's arguments do nothing more than establish that a

separate unit of collection employees might also be appropriate in this case, but do not show that including the collection employees in the existing multi-location unit is inappropriate.

In sum, the record evidence demonstrates that the collection employees have sufficient distinct interests to constitute a separate bargaining unit if they so choose. They also share a sufficient community of interest with the existing multi-location unit such that their inclusion in that unit is also appropriate. See for example Community Publications, Inc., 162 NLRB 855 (1967). In that case, the union represented pressmen at the employer's Sunnyvale plant, and wanted to include pressmen in the employer's recently acquired Mountain View plant in its existing unit at Sunnyvale. The Board found that Mountain View employees had separate supervision, that employees performed different work, and that each plant was primarily an independent operation, and that there was no bargaining history. The Board also observed that the same individual handled labor relations at both locations, work was interchange during emergency periods, and plants were only three miles apart. In those circumstances, the Board concluded that either a separate unit or multi-plant unit was appropriate and, therefore, a self-determination election was proper. Id. at 855-857. Accord Hobbs Trailer Division, Fruehauf Corp., 157 NLRB 28, 30-31 and nts. 3-4 (1966).

Accordingly, I conclude that the collection employees herein are entitled to a self-determination election to decide whether they wish to be included in the existing multi-location unit, or whether they wish to remain unrepresented.

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